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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/724,654	12/01/2003	Mary Lucille DeLucia	19741	2326

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EXAMINER

PENG, KUO LIANG

ART UNIT PAPER NUMBER

1712

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/724,654

Applicant(s)

DELUCIA ET AL.

Examiner

Kuo-Liang Peng

Art Unit

1712

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/5/05 Amendment.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-29, 32-37, 39-45 is/are rejected.
- 7) ☒ Claim(s) 30-31, 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Applicants' amendment filed on December 5, 2005 was received. Claims 1-20 and 46-47 are deleted. Claim 32 is amended. Now, Claims 21-45 are pending.
2. Claim objection(s) in the previous Office Action (Paper No. 080605) is/are removed.
3. Claim rejection(s) under 35 USC 102 in the previous Office Action (Paper No. 080605) is/are removed.
4. The indicated allowability of Claims 21-45 is withdrawn in view of the original rejection based on Nohr (US 5 413 655) set forth in Paper No. 0105 and the newly discovered reference(s) to Okamoto (US 4 739 001). Rejections based on the newly cited reference(s) follow. Examiner apologizes for causing any inconvenience.
5. The text of those sections of Title 35, U.S. code not included in this action can be found in a prior Office Action (Paper No. 080605).

Claim Rejections - 35 USC § 102 and 103

6. Claims 21-26, 28, 33-35, 37 and 39-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Nohr (US 5 413 655), and Claims 27, 29, 32 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nohr.

For Claims 21-29 and 33-37, Nohr discloses a melt-extrudable composition comprising a thermoplastic elastomer such as the polymers derived from monomers of ethylene, butene, styrene, etc. and the block copolymers derived from these monomers and a polysiloxane polyether as described in paragraphs 3 and 6 of Paper No. 0105, which is incorporated herein by reference. For Claim 32, since Nohr teaches a polyolefin, too, to be used in the composition for the same purpose as the styrenic block copolymer, it would have been obvious to one of ordinary skilled in the art at the time of the invention was made to utilize the polyolefin in addition to the styrenic block copolymer. See MPEP 2144.06. For Claims 39-45, Nohr further discloses a process for extruding the composition. (col. 11, line 52 to col. 13, line 22 and Examples) Applicant's arguments in the Amendment/Remarks filed on May 27, 2005 have been fully considered but they are not persuasive. The focus argument related to the core patentability is discussed below.

For Applicants' argument in Remarks filed on May 2, 2005 (page 9, last paragraph to page 10, 2nd paragraph), as mentioned in Paper No. 0105, Nohr does teach a styrenic block copolymer. Nohr does suggest a styrene-ethylene/butylenes-styrene block copolymer. Furthermore, the amounts of the polysiloxane polyether and the thermoplastic elastomer are described in col. 10, lines 48-54. Since Nohr's composition is substantially the same as that of the present invention, the polysiloxane polyether can impart all the benefits to the composition as argued by Applicants.

7. Claims 21-24, 28, 33-34 and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Okamoto (US 4 739 001).

For Claims 21-24 and 33-34, Okamoto discloses a composition comprising a styrenic block copolymer and an organopolysiloxane containing amino group, epoxy group, etc. (col. 2, line 7 to col. 3, line 15) The amount of the organopolysiloxane is described in col. 2, lines 37-45. The composition can be melt-kneaded, extruded and palletized. (col. 4, lines 26-41) For Claims 28 and 37, since Okamoto's composition is substantially the same as that of the present invention, the polyorganosiloxane should be able to lower the extrusion temperature.

8. Claims 30-31 and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

None of the above references teaches or fairly suggests the use of a titanate, zirconate or a mixture thereof set forth in the instant claims.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski, can be reached on (571) 272-1302. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on

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access to the Private PAIR system, contact the Electronic Business Center (EBC)
at 866-217-9197 (toll-free).

klp

February 3, 2006



Kuo-Liang Peng
Primary Examiner
Art Unit 1712